

W/HG
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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUN 09 2008
at 11 o'clock and 15 min. AM
SUE BEITIA, CLERK

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

| | | |
|-----------------------|---|---------------------------------|
| DALE MARCZAK |) | CIVIL NO. CV 08-00273 HG KSC |
| |) | |
| Plaintiff, |) | COMPLAINT; SUMMONS |
| |) | |
| vs. |) | |
| |) | |
| LGH, INC. |) | |
| dba SMITH'S UNION BAR |) | |
| Defendant. |) | |
| |) | |

COMPLAINT

Plaintiff DALE MARCZAK, through his undersigned counsel, avers and alleges as follows:

JURISDICTION AND VENUE

1. This court has original jurisdiction pursuant to 28 U.S.C. § 1331 through the federal question raised herein, namely the alleged violation of the Americans With Disabilities Act of 1990 (hereinafter “ADA”), 42 U.S.C. §§ 12101 et seq., and has pendant jurisdiction over the parallel state law claim.

2. All events material hereto occurred within the District of Hawaii.
3. The plaintiff is a person with a disability who as a past and future patron of the defendant is or is about to be subjected to unlawful discrimination.
4. The defendant is a public accommodation, operating one or more places of public accommodation, including a cocktail lounge located at 19 N. Hotel St. in Honolulu that falls under the ambit of the ADA, 42 U.S.C. §§ 12181 *et seq.* and is amenable to suit by any aggrieved person with disability for violation of the ADA and/or Hawaii Revised Statute § 347-13.
5. The defendant has violated the ADA and Hawaii Revised Statute §347-13 by denying the plaintiff equal accommodations and not complying with the ADA, having failed to eliminate readily achievable architectural barriers to equal accessibility, including but not limited to only inaccessible restrooms.

THEREFORE, THE PLAINTIFF RESPECTFULLY REQUESTS THE COURT enter judgment for the plaintiff and against the defendant and order the following relief:

- A) A permanent injunction ordering the defendant's full compliance with the ADA within ninety (90) days;
- B) Monetary damages in the amount of \$1,000.00 as provided for in Hawaii Revised Statute § 347-13.5;
- C) Payment of plaintiff's litigation costs, including reasonable expert and attorney's fees; and
- D) Such other relief as the court deems proper.

DATED: Honolulu, Hawaii, 6/4/08.



LUNSFORD DOLE PHILLIPS
Attorney for Plaintiff